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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,340	10/24/2003	Stephen L. Tillim	TILL.0004	3590
38327	7590	05/13/2005	EXAMINER	
REED SMITH LLP 3110 FAIRVIEW PARK DRIVE, SUITE 1400 FALLS CHURCH, VA 22042			MAH, CHUCK Y	
			ART UNIT	PAPER NUMBER

3676

DATE MAILED: 05/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/692,340	<b>Applicant(s)</b> TILLIM, STEPHEN L.	
	<b>Examiner</b> Chuck Mah	<b>Art Unit</b> 3676	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-79 is/are pending in the application.  
     4a) Of the above claim(s) 9-23, 25-33, 35-39, 48-62, 64-72 and 74-79 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 24, 34, 40-47, 63 and 73 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>9</u> pages. | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of claims 1-8, 24, 34, 40-47, 63 and 73 in the reply filed on Mar. 24, 2005 is acknowledged.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-8, 24, 34, 40-47, 63 and 73 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1 and claim 40, the handle as claimed cannot be structurally, geometrically understood. Both claims 1 and 40 merely address the components of a handle without defining the geometry of the handle. It is not clear what is being defined as "a radial section", "a side" for the thumb, "a side" for the index finger, or "a surface" for the palmar surface. It is also unclear what is being defined as "a middle section" or "an ulnar section" and the "sides" or "surface" thereof in term of the handle. Further, claims 1 and 40 are incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. The claims do not clearly define how the sections of the handle are structurally and geometrically linked to one another to render the handle operable such that the sections of the handle engage the palmar surface and the fingers of the hand but avoid placing undue pressure over the carpal tunnel.

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Claims 6 and 45 are vague and indefinite since the length of the handle is being defined in terms of a hand. The hand is not a part of the claimed limitations.

In both claims 8 and 47, line 1, "at least one" should be "said at least one".

In claims 24 and 47, it is not clear what "a pair of opposing guide members" is referring to and how "a pair of opposing guide members" is related to the "at least one guide member".

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 6, 40 and 45, as best as understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Quiring et al. (6,161,256) or Hillinger (5,445,479).

Cushioning surface (20) of '256 or resilient surface (34) of '479 "avoids placing undue pressure on a surface of the hand located over the carpal tunnel". Both handles can be divided by horizontal planes to define a radial section, a middle section and an ulnar section.

6. Claims 1-8, 24, 34, 40-47, 63 and 73, as best as understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Wingate et al. (5,125,878).

'878 has a proximal moving member (20), a distal moving member (28), a pair of guides (14, 16), and cushioning surface (45) that avoids undue pressure on over the carpal tunnel. As to claims 5 and 44, "avoids contacting..." is conditional and

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depending on the relative positioning of the hand and the handle. The claims recite no positive structure to perform "avoids contacting". The handle again can be divided by horizontal planes to define a radial section, a middle section and an ulnar section.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chuck Mah whose telephone number is (571)272-7059. The examiner can normally be reached on 5/4-9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on (571)272-7049. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Chuck Mah  
Primary Examiner  
Art Unit 3676

CM